

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :11726 of 2007

DATED:03-07-2007

BETWEEN:

The Bhagyanagar India Limited,
Rep., by its Director,
N.K.Reddy, having its regd.office at 5th floor,
Surya Towers, Sardar Patel Road,
Secunderabad.

..... PETITIONER

AND

The Assistant Commissioner of Police,
Punjagutta,
Hyderabad & another.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the order passed by the 2nd respondent, dated 31-05-2007, on the report given by the petitioner, as illegal, and arbitrary, and consequently set aside the same, directing the respondents to register the case and take appropriate action as per law and provide sufficient police aid to the petitioner to protect its property viz., the land admeasuring 1080 sq.yards bearing No.6-3-674/2, at Punjagutta, Hyderabad, bounded on the North by: House bearing No.6-3-674/3 of Sri Rajasekhar, South by: House bearing No.6-3-674/1, East by : House bearing No.6-3-674/4 of B.Nagendramma and West by: 150 feet wide road from Punjagutta to Begumpet.

3. It is the case of the petitioner that its company purchased the property bearing No.6-3-674/2 admeasuring 1080 sq.yards at Punjagutta, Hyderabad bounded on the North by: House bearing No.6-3-674/3 of Sri Rajasekhar, South by: House bearing No.6-3-674/1, East by: House bearing No.6-3-674/4 of B.Nagendramma and West by:150 feet wide road from Punjagutta to Begumpet, for a

consideration of Rs.1,75,00,000/- on 13-09-2002 in the auction conducted by the Government of India, Ministry of Finance Department of Economic Affairs, Debts Recovery Tribunal, Hyderabad. The said sale was also confirmed on 31-01-2003 under the order of confirmation of sale and sale certificate was also issued and thereafter petitioner company took delivery of physical possession of the said property on 27-10-2005 under valid cover of panchanama conducted by the Recovery Officer, Debt Recovery Tribunal, Hyderabad and since then it is in continuous possession and enjoyment of the same. Mutation was also effected in the municipal records vide proceedings of the municipal corporation, dated 15-03-2007. It is stated that the said order of the Debt Recovery Tribunal was also confirmed by the Supreme Court and thus, there is no dispute with regard to the right, title or possession over the said property. It is further stated that the petitioner company when wanted to erect a compound wall in order to protect the same from the land grabbers and on 26-05-2007 in order to dismantle the existing compound wall and to construct a new compound wall, engaged certain coolies and when they were about to start the work on 26-05-2007 fifteen to twenty antisocial elements armed with knives, crowbars, and such other deadly weapons, came to the site and threatened the petitioner and his workers to kill them if they proceed with their work. Therefore, petitioner made a representation before the respondents herein on 31-05-2007 requesting them to provide necessary police protection

and to prevent the breach of public tranquility. It is stated that they are ready to deposit the costs as required for rendering necessary police protection. On the said representation an endorsement has been made by the Assistant Commissioner of Police, Punjagutta Division to the following effect:

“Received on 31-05-2007. I have perused the papers and it is concluded that the matter seems to be civil in nature. Police protection cannot be given”

and the same was signed by the Assistant Commissioner of Police, Punjagutta Division, Hyderabad. Aggrieved by the said action, the present Writ Petition has been filed.

4. Counter has been filed by the 1st respondent stating that the petitioner filed a representation on 26-05-2007 about the incident that has been taken place with regard to the interference of fifteen to twenty antisocial elements when they wanted to demolish the old compound wall and erect a new compound wall. It is further stated that the Deputy Commissioner of Police has received a complaint on 20-06-2007 from the petitioner company about their rightful ownership, title, and possession of the said property and based on the said complaint Cr.No.466 of 2007 was registered under Sections 147, 448, and 506 IPC on 20-06-2007 against the unknown persons and investigation is pending. It is stated that the respondent is not competent authority to decide civil matters like possession etc., and hence, police protection was not given to the petitioner.

5. The tenor of the said counter goes to show that the Assistant Commissioner of Police was not inclined to take any action to register crime against the offenders who were said to have committed cognizable offence on 26-05-2005. When a written representation has been made on 31-05-2007 police made an endorsement refusing to give necessary police protection. Nobody disputed the right, title, and possession of the said property of the petitioner. If that be so, if there is no dispute with regard to the right, title of any immovable property it is the duty of the police to render necessary police protection. If the State does not protect the property of the rightful owners where there are no disputes there cannot be any law and order which can be presumed to exist in the State. Therefore, I am of the opinion that there is no justification on the part of the 1st respondent in refusing to render police protection in the instant case when there is no dispute with regard to the right, title or possession from any third parties.

6. Having regard to the facts and circumstances of the case, the Writ Petition is allowed as prayed for. There shall be no order as to costs. Mark a copy of this order to the Commissioner of Police for giving necessary instructions to his subordinates to render necessary police protection wherever there are no disputes with regard to the right, title, and possession.

V.ESWARAIAH,J

03rd July, 2007.

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